IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

C.O.C.P. No. 1288 of 2004.
Date of Decision: September 05, 2006.

Punit Kumar & Ors.

....**Petitioners**

through
Mr. Sanjiv Bansal, Advocate

Versus

Smt. Surender Kumari & Anr.

...**Respondents**
through
Mr. J.S.Toor, Advocate.

CORAM:

HON'BLE MR. JUSTICE SURYA KANT.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT,J.(ORAL)

The petitioners along with some other persons filed Civil Writ Petition No.11504 of 2001 in which quashing of certain resolutions passed by the Amritsar Improvement Trust in terms whereof their lands along with built-up structures were proposed to be acquired, was sought. The afore-stated writ petition along with bunch of cases was allowed by a Division Bench of this Court vide judgment dated 25th February, 2002 in the following terms:-

> "The terminology of the aforesaid section is clear and categoric. It postulates that if a scheme has been sanctioned by the State Government, it can only be

altered with the prior approval of the State Government and that too within a certain time schedule. Admittedly, the prior approval of the State Government was not taken before the Scheme was altered to the petitioner's detriment, although the matter is said to be pending for reconsideration before the Chief Town Planner. In this view of the matter, the two impugned orders (Annexures P-17 and P-21) can not be sustained. These are accordingly quashed.

The respondent-Trust would, however, be at liberty to take further steps with regard to the petitioners' property, in accordance with law".(Emphasis applied).

Alleging that the aforementioned judgment is being willfully and deliberately violated by the respondents, this contempt petition has been filed.

In response to the show cause notice, the respondents have filed their affidavits/additional affidavits. The petitioners have also filed their additional affidavits.

There is no dispute with regard to the fact that the petitioners' land measuring 9 kanals 7 marlas is claimed to have been acquired by the Improvement Trust and is a part of the total land measuring 30.8 acres, sought to be acquired. The respondents, however, are defending their action on the plea that while allowing the writ petition filed by the petitioners, this Court had granted them liberty "to take further steps with regard to the petitioners' property, in accordance with law".

In this view of the matter, it needs to be examined as to whether or not after the judgment dated 25th February, 2002, the respondents have taken all the necessary legal steps to acquire the petitioners' land.

Shri Toor, learned counsel representing the respondents contends that after the judgment dated 25th February, 2002, the Improvement Trust passed another resolution No.41 dated 20th September, 2002 (Annexure R-2) whereby prior approval of the State Government as mandated under Section 43 of the Punjab Town Improvement Act, 1922 for notifying the Scheme was sought. The Scheme known as "340 Acres Development Scheme" was proposed in respect of the land which included 30.8 acres of land in question, i.e., including land measuring 9K-7M owned by the petitioners. It is pointed out that in terms of the resolution No.41 dated 20th September, 2002 (Annexure R-3), the State Government has accorded the necessary approval vide memo dated 9.9.2004 (Annexure R-2), relevant part of which reads as follows:-

> "2. Prior approval is granted under Section 43 of the P.T.I.Act, 1922 with regard to amendment in the area of 30.8 acres of 340-Acres Scheme of the Improvement Trust, Amritsar. In this connection, immediate further action be taken and the intimation be sent to the Government".

As averred in the additional affidavit dated 8.8.2006 and contended by Shri Toor, upon receipt of the requisite sanction from the State Government, the Improvement Trust prepared a lay-out plan/drawing on 9.3.2005 (Annexure R-5) which was sent to the Chief Town Planner, Local Government Department, Punjab, for their technical approval on

20.4.2005. In the said lay out plan, the subject property owned by the petitioners is duly depicted and is marked as “ABCDEFGH”. The technical approval of the State Government Authorities is still awaited.

As the facts would speak for themselves, after the judgment dated 25th February, 2002 passed by this Court, in terms whereof liberty was granted to the Improvement Trust to deal with the petitioners' property in accordance with law, the authorities of the Improvement Trust appear to have taken some lawful action in order to acquire and utilize the petitioners' land in accordance with law. Though, it is not expedient or desirable to express any opinion in relation to the legality or otherwise of these acquisition proceedings so that no prejudice is caused to either of the parties, it is apparent that there is no violation of the directions contained in the judgment dated 25th February, 2002 passed by this Court and noticed above. Consequently, these contempt proceedings are dropped with liberty to the petitioners to initiate appropriate legal action, if so advised, before an appropriate forum in relation to the subsequent acquisition proceedings undertaken by the Improvement Trust, a brief reference to which has already been made above.

With liberty aforementioned, this petition is disposed of.

Rule discharged.

September 05, 2006. **(SURYA KANT)**
dinesh **JUDGE**